



Joe Liebeschuetz  
Townsend and Townsend and Crew LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, CA 94111

|                                     |                        |
|-------------------------------------|------------------------|
| In re Application of                | :                      |
| Flax, Solomon                       | : DECISION ON          |
| Application No.: 09/830,830         | :                      |
| PCT No.: PCT/IL00/00513             | : PETITION RENEWED     |
| Int. Filing Date: 29 August 2000    | :                      |
| Priority Date: 30 August 1999       | : UNDER 37 CFR 1.47(b) |
| Attorney's Docket No.: 082845000000 | :                      |
| For: PROCESS FOR PRODUCING METAL-   | : AND 1.137(b)         |
| CONTAINING SULFIDORES               | :                      |

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.47(b) AND UNDER 37 CFR 1.137(b) " filed on 16 August 2002, which seeks both the acceptance of the application without the signature of the inventor Dr. Solomon Flax and revival of the above application under 37 CFR 1.137(b).

### **BACKGROUND**

In a decision from this Office on 01 July 2002, the petition filed on 28 February 2002 was dismissed. The decision indicated that applicant had not satisfied requirements (2) and (4) under 37 CFR 1.47(b) and requirement (1) under 37 CFR 1.137(b).

On 16 August 2002, applicant filed a renewed petition which included a supplement declaration of Gilbert Goller and a copy of the assignment of Israel patent application 131,652 from STATEC ECOCHEM LTD. To JOMA CHEMICAL AS.

### **DISCUSSION**

#### **PETITION UNDER 37 CFR 1.47(b):**

Applicant's renewed petition has satisfied requirement (2) of 37 CFR 1.47(b). However, applicant has not satisfied requirement (4) of 37 CFR 1.47(b) and requirement (1) of 1.137(b).

The supplemental declaration by Gilbert Goller have been reviewed and has been found to be in compliance with requirement (2) of 37 CFR 1.47(b). The supplemental declaration states that on or about December 28, 2000, Mr. Goller made a bona fide attempt to present to Dr. Flax with a complete copy of the above-identified application (including the specification, drawings, claims, declaration and power of attorney and assignment) for his signature and that he expressly refused to review or sign the declaration. This evidence is sufficient to establish that the Mr. Flax has refused to sign the declaration.

With respect to requirement (4) of 37 CFR 1.47(b), applicant has submitted a copy, appendix G, of an assignment of Israel patent application 131,652 from SATEC ECOCHEM LTD. to JOMA CHEMICAL. However, the assignment is in Hebrew and no English translation has been provided to verify the assignment. Accordingly, petitioner has not provided sufficient proof that JOMA CHEMICAL is the assignee. Therefore the previous provided declaration executed by Mr. John Omes on behalf of the non-signing inventor is still defective.

Because item (4) has not been satisfied, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

#### **DECISION**

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

#### **PETITION UNDER 37 CFR 1.137(b):**

With respect to item (1) under 37 CFR 1.137(b), petitioner has not provided the proper reply because a proper executed declaration has not been submitted as explained above.

Accordingly, the petition is deemed to not to satisfy requirement (1) under 37 CFR 1.137(b).

#### **DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

#### **CONCLUSION**

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Second Petition Under 37 CFR 1.47(b) and 1.137(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Leonard Smith  
PCT Legal Examiner  
PCT Legal Office



Rafael Bacares  
PCT Legal Examiner  
PCT Legal Office  
Tel: (703) 308-6312  
Fax: (703) 308-6459